



Reprinted
February 3, 2004

SENATE BILL No. 190

DIGEST OF SB 190 (Updated February 2, 2004 4:04 pm - DI 106)

Citations Affected: IC 8-2; IC 33-4.

Synopsis: Jury exemptions. Removes automatic exemptions from jury service. Protects a person called for jury duty from adverse employment action, and prohibits employers from requiring or requesting employees to use annual, vacation, or sick leave for jury duty.

Effective: July 1, 2004.

Gard, Broden, Ford

January 6, 2004, read first time and referred to Committee on Judiciary.
January 22, 2004, amended, reported favorably — Do Pass.
February 2, 2004, read second time, amended, ordered engrossed.

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SB 190—LS 6778/DI 106+



Reprinted
February 3, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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SENATE BILL No. 190

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-2-15-9 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2004]: Sec. 9. It shall be the duty of all persons,
3 companies or corporations keeping, having, or maintaining any public
4 ferries across any stream to and from any point within this state, to
5 cause the banks of the river or creek to be dug sufficiently low and kept
6 in good passable order for the passage of **man persons, and horse**
7 **horses, and** wagons and other vehicles. **and such ferry-keepers and**
8 **persons employed in attendance at such ferry shall not be compelled to**
9 **serve on juries or perform military duty:**

10 SECTION 2. IC 33-4-5-7, AS AMENDED BY P.L.195-2003,
11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2004]: Sec. 7. (a) ~~A person shall be excused from acting as a~~
13 ~~juror if the person:~~

14 (1) ~~is over sixty-five (65) years of age;~~
15 (2) ~~is a member in active service of the armed forces of the United~~
16 ~~States;~~
17 (3) ~~is an elected or appointed official of the executive, legislative,~~

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or judicial branches of government of:

(A) the United States;

(B) Indiana; or

(C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

(4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;

(5) is an honorary military staff officer appointed by the governor under IC 10-16-2-5;

(6) is an officer or enlisted person of the guard reserve forces authorized by the governor under IC 10-16-8;

(7) is a veterinarian licensed under IC 15-5-1.1;

(8) is serving as a member of the board of school commissioners of the city of Indianapolis under IC 20-3-11-2;

(9) is a dentist licensed under IC 25-14-1;

(10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or

(11) would serve as a juror during a criminal trial and the person is:

(A) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(B) the spouse or child of a person described in clause (A);

and desires to be excused for that reason:

(b) (a) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) The person is under a sentence imposed for an offense.

(5) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(6) The person has had rights revoked by reason of a felony

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conviction and the rights have not been restored.

~~(c)~~ **(b)** A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

~~(d)~~ **(c)** A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

~~(e)~~ **(d)** The same petit jurors may be used in civil cases and in criminal cases.

~~(f)~~ **(e)** A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

~~(g)~~ **(f)** Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to serve on a jury under this section and except as provided in subsections ~~(c)~~, ~~(d)~~, and ~~(f)~~, **(b)**, **(c)**, and **(k)**, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm:

(1) after the person is no longer under a sentence imposed for an offense; or

(2) after the person has had the person's rights restored following a conviction.

~~(h)~~ **(g)** Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

(1) Whether the person has been subject to:

(A) a protective order;

(B) a no contact order;

(C) a workplace violence restraining order; or

(D) any other court order that prohibits the person from possessing a firearm.

(2) Whether the person has successfully completed a substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete

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a specified condition under subsection ~~(d)~~ (c) or whether the person has committed a subsequent offense.

~~(i)~~ (h) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

~~(j)~~ (i) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

~~(k)~~ (j) A person has not been convicted of a crime of domestic violence for purposes of subsection ~~(h)~~ (g) if the conviction has been expunged or if the person has been pardoned.

~~(l)~~ (k) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

(1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

SECTION 3. IC 33-4-5-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12. (a) The employer of a person who:**

(1) is summoned to serve as a juror; and

(2) notifies the person's employer of the jury summons within a reasonable period after receiving the jury summons and before the person appears for jury duty;

may not subject the person to any adverse employment action as the result of the person's jury service.

(b) An employee may not be required or requested to use annual, vacation, or sick leave for time spent:

(1) responding to a summons for jury duty;

(2) participating in the jury selection process; or

(3) serving on a jury.

This subsection does not require an employer to provide annual, vacation, or sick leave to an employee who is not otherwise entitled to these benefits.

SECTION 4. IC 33-4-5.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 13. A qualified prospective juror is not exempt from jury service except for the following:**

(1) Members in active service of the Armed Forces of the United States who are actively engaged in the performance of their official duties;

(2) Elected or appointed officials of the executive, legislative, or

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judicial branches of government of the:

(A) United States;

(B) State of Indiana; or

(C) counties affected by this chapter;

who are actively engaged in the performance of their official duties.

(3) A person who:

(A) would serve as a juror during a criminal trial; and

(B) is:

(i) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(ii) the spouse or child of a person described in item (i);

and desires to be excused for that reason.

(a) The court shall determine if a prospective juror is qualified to serve, or, if disabled but otherwise qualified, could serve with reasonable accommodation. A person who is not eligible for jury service shall not serve. In order to serve as a juror, a person shall state under oath or affirmation that the person meets all the following requirements:

(1) The person is a citizen of the United States.

(2) The person is at least eighteen (18) years of age.

(3) The person is a resident of the summoning county.

(4) The person is able to read, speak, and understand the English language.

(5) The person is not suffering from a physical or mental disability that prevents the person from rendering satisfactory jury service.

(6) The person is not under a guardianship because of mental incapacity.

(7) The person has not had the right to vote revoked by reason of a felony conviction (unless the right to vote has been restored).

(8) If the trial is for a criminal case, the person is not a law enforcement officer.

(b) A person who has completed a term of jury service in the year preceding the date of the person's summons may claim exemption from jury service.

(c) The judge or the judge's designee may authorize a deferral of jury service for up to one (1) year upon a showing of undue hardship, extreme inconvenience, or public necessity.

(d) The facts supporting juror disqualification, exemption, and

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1 deferral shall be recorded under oath or affirmation. No
 2 disqualification, exemption, or deferral shall be authorized unless
 3 the facts support it.

4 SECTION 5. IC 33-4-5.5-23 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 6 1, 2004]: Sec. 23. (a) The employer of a person who:

- 7 (1) is summoned to serve as a juror; and
- 8 (2) notifies the person's employer of the jury summons within
- 9 a reasonable period after receiving the jury summons and
- 10 before the person appears for jury duty;

11 may not subject the person to any adverse employment action as
 12 the result of the person's jury service.

13 (b) An employee may not be required or requested to use
 14 annual, vacation, or sick leave for time spent:

- 15 (1) responding to a summons for jury duty;
- 16 (2) participating in the jury selection process; or
- 17 (3) serving on a jury.

18 This subsection does not require an employer to provide annual,
 19 vacation, or sick leave to an employee who is not otherwise entitled
 20 to these benefits.

21 SECTION 6. IC 33-4-11-23 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 23. (a) A person who
 23 appears for service as a petit or grand juror serves until the conclusion
 24 of the first trial in which the juror is sworn, regardless of the length of
 25 the trial or the manner in which the trial is disposed. A person who
 26 appears for service but is not selected and sworn as a juror completes
 27 the person's service at the end of one (1) day.

28 (b) A person who:

- 29 (1) serves as a juror under this chapter; or
- 30 (2) completes one (1) day of jury selection but is not chosen to
- 31 serve as a juror;

32 may not be selected for another jury panel until all nonexempt persons
 33 on the master list have been called for jury duty.

34 (c) The employer of a person who:

- 35 (1) is summoned to serve as a juror; and
- 36 (2) notifies the person's employer of the jury summons within
- 37 a reasonable period after receiving the jury summons and
- 38 before the person appears for jury duty;

39 may not subject the person to any adverse employment action as
 40 the result of the person's jury service.

41 (d) An employee may not be required or requested to use
 42 annual, vacation, or sick leave for time spent:

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- 1 (1) responding to a summons for jury duty;
- 2 (2) participating in the jury selection process; or
- 3 (3) serving on a jury.
- 4 **This subsection does not require an employer to provide annual,**
- 5 **vacation, or sick leave to an employee who is not otherwise entitled**
- 6 **to these benefits.**

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SENATE MOTION

Madam President: I move that Senators Broden and Ford be added as coauthors of Senate Bill 190.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 190, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-2-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. It shall be the duty of all persons, companies or corporations keeping, having, or maintaining any public ferries across any stream to and from any point within this state, to cause the banks of the river or creek to be dug sufficiently low and kept in good passable order for the passage of ~~man~~ **persons, and horse horses, and** wagons and other vehicles. ~~and such ferry-keepers and persons employed in attendance at such ferry shall not be compelled to serve on juries or perform military duty.~~"

Page 1, line 3, strike "(a) A person shall be excused from acting as a".

Page 1, strike lines 4 through 17.

Page 2, strike line 1.

Page 2, line 2, strike "(6) is an officer or enlisted person of the".

Page 2, line 2, delete "Indiana".

Page 2, line 2, strike "guard reserve".

Page 2, line 3, strike "authorized by the governor under IC 10-16-8;".

Page 2, line 5, delete "(7)".

Page 2, line 5, strike "is serving as a member of the board of school".

Page 2, strike line 6.

Page 2, line 8, delete "(8)".

Page 2, line 8, strike "is a member of a police or fire department or company".

Page 2, strike line 9.

Page 2, line 10, delete "(9)".

Page 2, line 10, strike "would serve as a juror during a criminal trial and the".

Page 2, strike lines 11 through 16.

Page 2, line 17, strike "(b)" and insert "(a)".

Page 2, line 35, strike "(c)" and insert "(b)".

Page 2, line 40, strike "(d)" and insert "(c)".

Page 3, line 1, strike "(e)" and insert "(d)".

Page 3, line 3, strike "(f)" and insert "(e)".

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Page 3, line 5, strike "(g)" and insert "(f)".
 Page 3, line 7, strike "(c), (d), and (l)," and insert "(b), (c), and (k)".
 Page 3, line 14, strike "(h)" and insert "(g)".
 Page 3, line 34, strike "(d)" and insert "(c)".
 Page 3, line 36, strike "(i)" and insert "(h)".
 Page 3, line 38, strike "(j)" and insert "(i)".
 Page 3, line 41, strike "(k)" and insert "(j)".
 Page 3, line 42, strike "(h)" and insert "(g)".
 Page 4, line 2, strike "(l)" and insert "(k)".

Page 4, after line 8, begin a new paragraph and insert:

"SECTION 3. IC 33-4-5.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. ~~A~~ **qualified prospective juror is not exempt from jury service except for the following:**

(1) **Members in active service of the Armed Forces of the United States who are actively engaged in the performance of their official duties:**

(2) **Elected or appointed officials of the executive, legislative, or judicial branches of government of the:**

(A) **United States;**

(B) **State of Indiana; or**

(C) **counties affected by this chapter;**

who are actively engaged in the performance of their official duties:

(3) **A person who:**

(A) **would serve as a juror during a criminal trial; and**

(B) **is:**

(i) **an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or**

(ii) **the spouse or child of a person described in item (i);**

and desires to be excused for that reason:

(a) The court shall determine if a prospective juror is qualified to serve, or, if disabled but otherwise qualified, could serve with reasonable accommodation. A person who is not eligible for jury service shall not serve. In order to serve as a juror, a person shall state under oath or affirmation that the person meets all the following requirements:

(1) The person is a citizen of the United States.

(2) The person is at least eighteen (18) years of age.

(3) The person is a resident of the summoning county.

(4) The person is able to read, speak, and understand the

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English language.

(5) The person is not suffering from a physical or mental disability that prevents the person from rendering satisfactory jury service.

(6) The person is not under a guardianship because of mental incapacity.

(7) The person has not had the right to vote revoked by reason of a felony conviction (unless the right to vote has been restored).

(8) If the trial is for a criminal case, the person is not a law enforcement officer.

(b) A person who has completed a term of jury service in the year preceding the date of the person's summons may claim exemption from jury service.

(c) The judge or the judge's designee may authorize a deferral of jury service for up to one (1) year upon a showing of undue hardship, extreme inconvenience, or public necessity.

(d) The facts supporting juror disqualification, exemption, and deferral shall be recorded under oath or affirmation. No disqualification, exemption, or deferral shall be authorized unless the facts support it."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 190 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 3.

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SENATE MOTION

Madam President: I move that Senate Bill 190 be amended to read as follows:

Page 4, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 3. IC 33-4-5-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12. (a) The employer of a person who:**

- (1) is summoned to serve as a juror; and**
- (2) notifies the person's employer of the jury summons within a reasonable period after receiving the jury summons and before the person appears for jury duty;**

may not subject the person to any adverse employment action as the result of the person's jury service.

(b) An employee may not be required or requested to use annual, vacation, or sick leave for time spent:

- (1) responding to a summons for jury duty;**
- (2) participating in the jury selection process; or**
- (3) serving on a jury.**

This subsection does not require an employer to provide annual, vacation, or sick leave to an employee who is not otherwise entitled to these benefits."

Page 5, after line 28, begin a new paragraph and insert:

"SECTION 5. IC 33-4-5.5-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 23. (a) The employer of a person who:**

- (1) is summoned to serve as a juror; and**
- (2) notifies the person's employer of the jury summons within a reasonable period after receiving the jury summons and before the person appears for jury duty;**

may not subject the person to any adverse employment action as the result of the person's jury service.

(b) An employee may not be required or requested to use annual, vacation, or sick leave for time spent:

- (1) responding to a summons for jury duty;**
- (2) participating in the jury selection process; or**
- (3) serving on a jury.**

This subsection does not require an employer to provide annual, vacation, or sick leave to an employee who is not otherwise entitled to these benefits.

SECTION 6. IC 33-4-11-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 23. (a) A person who**

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appears for service as a petit or grand juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service but is not selected and sworn as a juror completes the person's service at the end of one (1) day.

(b) A person who:

- (1) serves as a juror under this chapter; or
- (2) completes one (1) day of jury selection but is not chosen to serve as a juror;

may not be selected for another jury panel until all nonexempt persons on the master list have been called for jury duty.

(c) The employer of a person who:

- (1) is summoned to serve as a juror; and**
- (2) notifies the person's employer of the jury summons within a reasonable period after receiving the jury summons and before the person appears for jury duty;**

may not subject the person to any adverse employment action as the result of the person's jury service.

(d) An employee may not be required or requested to use annual, vacation, or sick leave for time spent:

- (1) responding to a summons for jury duty;**
- (2) participating in the jury selection process; or**
- (3) serving on a jury.**

This subsection does not require an employer to provide annual, vacation, or sick leave to an employee who is not otherwise entitled to these benefits."

(Reference is to SB 190 as printed January 23, 2004.)

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